

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 933

Introduced by Senator Dunn

~~(Principal coauthor: Assembly Member Pavley)~~

~~(Principal coauthor: Assembly Member Nunez)~~

~~(Coauthors: Senators Cedillo, Escutia, and Romero)~~

February 21, 2003

~~An act to amend Section 803 of the Penal Code, relating to criminal procedure, and declaring the urgency thereof, to take effect immediately. An act to add Section 354.9 to the Code of Civil Procedure, relating to civil actions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as amended, Dunn. ~~Criminal procedure: limitations of time~~ *Victims of wrongful or coerced repatriation.*

Existing law authorizes various persons to bring civil actions for damages under specified circumstances.

This bill would authorize a victim of unconstitutional, wrongful, or coerced repatriation, defined as any United States citizen or legal resident of Mexican descent who was coerced, forced, or falsely induced to emigrate from California during the period from 1929 to 1944, inclusive, or the victim's heir or beneficiary, to bring a legal action to recover damages in any court of competent jurisdiction in this state. This provision would apply if the victim was coerced, forced, or falsely induced to emigrate by any city, county, or state governmental authority, or anyone acting under color of that authority, including any private individual or business entity. The provision would also apply

only if that person resides in this state and has a claim arising out of that unconstitutional, wrongful, or coerced repatriation, as specified. The bill would also provide that any action brought pursuant to this provision may not be dismissed for failure to comply with the applicable statute of limitations or to exhaust any applicable administrative remedies or governmental tort claims procedures if the action is commenced on or before December 31, 2006.

~~Under existing law, there are various specified limitations of time after which complaints or indictments may not be filed against defendants. Existing statutes permit those limitations of time to be extended or waived for various specified reasons, sometimes retroactively. In particular, one provision allows a complaint to be filed within a year of the date a person reports to a California law enforcement agency that he or she was a victim prior to 1994 of specified sexual conduct as a minor, if the otherwise applicable limitation of time has expired, the allegation is corroborated, and other conditions are satisfied. A 2nd provision permits the filing of a criminal complaint within one year of the date of a report to a California law enforcement agency by a person under 21 years of age, alleging that he or she was the victim as a minor of one of a specified set of sex crimes, if the otherwise applicable statute of limitations has expired, and the allegation is corroborated.~~

~~With regard to these 2 circumstances, this bill would toll the limitation of time for the length of any period of litigation that challenges grand jury subpoenas issued with respect to child sexual abuse allegations, including any associated writ or appellate proceedings, until the end of that litigation or until the disclosure of evidence pursuant to the subpoena after the litigation. This bill would also state that this tolling does not affect the definition or applicability of any evidentiary privilege, and does not apply to a grand jury subpoena found by a court to be issued or caused to issued in bad faith.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1.—Section 803 of the Penal Code is amended to
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1 *SECTION 1. Section 354.9 is added to the Code of Civil*
2 *Procedure, to read:*

3 354.9. (a) *The following definitions govern the construction*
4 *of this section:*

5 (1) *“Victim of unconstitutional, wrongful, or coerced*
6 *repatriation” means any United States citizen or legal resident of*
7 *Mexican descent who was coerced, forced, or falsely induced to*
8 *emigrate from California during the period from 1929 to 1944,*
9 *inclusive, by any city, county, or state governmental authority, or*
10 *anyone acting under color of that authority, including, but not*
11 *limited to, any private individual or business entity that conspired*
12 *with any city, county, or state governmental authority, or anyone*
13 *acting under color of that authority, to violate the California*
14 *constitutional or property rights of that person.*

15 (2) *“Damages” means any and all damages for any harm, loss,*
16 *or detriment sustained by any victim of unconstitutional, wrongful,*
17 *or coerced repatriation by reason of the coerced, forced, or falsely*
18 *induced emigration from California by any city, county, or state*
19 *governmental authority, or anyone acting under color of that*
20 *authority, including, but not limited to, any private individual or*
21 *business entity that conspired with any city, county, or state*
22 *governmental authority, or anyone acting under color of that*
23 *authority, to violate the California constitutional or property*
24 *rights of any victim of unconstitutional, wrongful, or coerced*
25 *repatriation.*

26 (b) *Notwithstanding any other provision of law, any victim of*
27 *unconstitutional, wrongful, or coerced repatriation, or the heir or*
28 *beneficiary of a victim of unconstitutional, wrongful, or coerced*
29 *repatriation, who resides in this state and has a claim arising out*
30 *of the victim’s coerced, forced, or falsely induced emigration from*
31 *California by any city, county, or state governmental authority, or*
32 *anyone acting under color of that authority, including, but not*
33 *limited to, any private individual or business entity that conspired*
34 *with any city, county, or state governmental authority, or anyone*
35 *acting under color of that authority, to violate the California*
36 *constitutional or property rights of any victim of unconstitutional,*
37 *wrongful, or coerced repatriation, may bring a legal action to*
38 *recover any damages in any court of competent jurisdiction in this*
39 *state, which court shall be deemed the proper forum for that action*
40 *until its completion or resolution.*

1 (c) Any action brought under this section may not be dismissed
2 for failure to (1) comply with the applicable statute of limitations,
3 (2) exhaust any applicable administrative remedies or
4 governmental tort claim procedures otherwise provided by any
5 statute, if the action is commenced in any California court of
6 competent jurisdiction on or before December 31, 2006.

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10 **All matter omitted in this version of the**
11 **bill appears in the bill as amended in the**
12 **Assembly, March 26, 2003 (JR 11)**
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